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SNELL & WILMER  
ONE ARIZONA CENTER  
400 EAST VAN BUREN  
PHOENIX, AZ 850040001

EXAMINER

CHOI, JACOB Y

ART UNIT PAPER NUMBER

2875

DATE MAILED: 04/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/081,598

Examiner

Jacob Y Choi

Applicant(s)

HILLE ET AL

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION

Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.

If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.

Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 20 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 20 February 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other \_\_\_\_\_

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement filed 02/20/2002 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### *Drawings*

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 609, 800, & 980. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains  
Patentability shall not be negated by the manner in which the invention was made

4 Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Tyson et al. (USPN 6,068,384) or Lueken et al. (USPN 5,908,236) in view of Demshki, Jr. et al. (USPN 5,823,664).

Regarding claims 1 & 18, either Tyson et al. or Lueken et al. discloses a housing (10 or 20), a lamp fixture (120 or 150), and a positioning assembly (122 or 180) supported by the housing and positioning the lamp fixture, wherein the positioning assembly is configured to allow yaw rotation direction (side to side), and rotational positioning of the lamp fixture. Either Tyson et al. or Lueken et al. disclose the claimed invention except for the positioning assembly is configured to allow linear positioning of the lamp fixture. Demshki, Jr. et al. teaches that it is known to modify the positioning assembly to adjust the lamp fixture linearly, in addition to rotation and yaw adjustment (figure 13). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use modification in either Tyson et al. or Lueken et al., as taught by Demshki Jr. et al. in order to position the lamp fixture in multi-direction to illuminate desired area. Tyson et al. similarly discloses the two aperture on upper support section (figure 8) that is connected to the positioning assembly, which allows height adjustment of the lamp fixture, therefore, combining teachings of either Tyson et al. or Lueken et al. with Demshki Jr. et al. is proper.

Regarding claim 2, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the housing comprises a cylindrical structure.

Regarding claim 3, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the positioning assembly is further configured to facilitate rotation of the lamp fixture about an axis through the radial center of the cylindrical structure.

Regarding claim 4, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses a substantially planar lid (figure 3 or figure 1) configured to engage the housing, and a linkage assembly connected to the lid and supporting the lamp fixture.

Regarding claim 5, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the lid further comprises a window.

Regarding claim 6, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, Tyson et al. discloses the window (126) comprises a glass covering configured to be recessed relative to a top surface of the lid of the positioning assembly, wherein the lid comprises a weep hole, and wherein the lid is configured to drain water off the surface of the glass covering through the weep hole (158).

Regarding claim 7, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, Tyson et al. discloses the lid further comprises ventilation holes.

Regarding claim 8, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, Lueken et al. discloses the linkage assembly further comprises an elongated member defining a slotted groove, wherein the slotted groove is configured to receive a thumb-bolt (170) assembly for slideably adjusting and fixing the distance between the lamp fixture and the opening of the positioning assembly.

Regarding claim 9, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, Lueken et al. discloses the slotted groove and thumb-bolt assembly are further configured for rotatably adjusting and fixing the pitch of the lamp fixture relative to the lid of the positioning assembly.

Regarding claim 10, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the housing further comprises a collar configured to be fixably attached to a cylinder.

Regarding claim 11, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the collar is configured to attach to the housing on both the outer and inner surfaces of a first end of the cylinder.

Regarding claim 12, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the housing has an open end.

Regarding claim 13, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the positioning assembly is removable from the housing.

Regarding claim 14, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the rotational positioning the lamp fixture comprises both a pitch rotation direction and a yaw rotation direction.

Regarding claim 15, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses a lamp fixture body, a lamp, and a reflector, wherein the reflector is configured to reflect light from the lamp and wherein the lamp fixture body is configured with a support shelf for supporting the reflector.

Regarding claim 16, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the lamp fixture body is further configured to support a filter lens.

Regarding claim 17, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, Lueken et al. discloses the lamp fixture body further comprises a lamp fixture cap and a lamp fixture base, wherein the lamp fixture cap and lamp fixture base are configured to slideably connect to each other with at least one O-ring between the lamp fixture cap and lamp fixture base.

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Regarding claim 19, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the housing comprises a cylindrical structure.

Regarding claim 20, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the positioning assembly is further configured to facilitate rotation of the lamp fixture about an axis through the radial center of the cylindrical structure.

Regarding claim 21, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses a substantially planar lid and a linkage assembly connected to the lid and supporting the lamp fixture.

Regarding claim 22, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the lid further comprises a window.

Regarding claim 23, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, Tyson et al. the window comprises a glass covering configured to be recessed relative to a top surface of the lid of the positioning assembly wherein the lid comprises a weep hole and wherein the lid is configured to drain water off the surface of the glass covering through the weep hole.



Regarding claim 24, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, Tyson et al. the lid further comprises ventilation holes.

Regarding claim 25, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, Demshki, Jr. et al. discloses the linkage assembly further comprises an elongated member defining a slotted groove wherein the slotted groove is configured to receive a thumb-bolt assembly for slideably adjusting the fixing the distance between the lamp fixture and the lid of the positioning assembly.

Regarding claim 26, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, Demshki, Jr. et al. discloses the slotted groove and thumb-bolt assembly are further configured for rotatably adjusting and fixing the pitch of the lamp fixture relative to the lid of the positioning assembly.

Regarding claim 27, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the housing further comprises a collar configured to be fixably attached to the cylinder.

Regarding claim 28, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the collar is configured to attach to the housing on both the outer and inner surfaces of a first end of the cylinder.

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Regarding claim 29, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the housing has an open end.

Regarding claim 30, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the positioning assembly is removably from the housing.

Regarding claim 31, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the rotational positioning of the lamp fixture comprises both a pitch rotation direction and a yaw rotation direction.

Regarding claim 32, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses a lamp fixture body, a lamp, and a reflector, wherein the reflector is configured to reflect light from the lamp and wherein the lamp fixture body is configured with a support shelf for supporting the reflector.

Regarding claim 33, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the lamp fixture body is further configured to support a filter lens.

Regarding claim 34, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, Lueken et al. discloses the lamp fixture body further comprises a lamp fixture cap and a lamp fixture base, wherein the lamp fixture cap and lamp fixture base are configured to slideably connect

to each other with at least one O-ring (45) between the lamp fixture cap and lamp fixture base.

Regarding claim 35, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses the collar is a pour collar.

Regarding claim 36, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. In addition, both Tyson et al. and Lueken et al. discloses a lamp fixture body, wherein the lamp fixture body further comprises at least one positioning assembly connection point configured to receive the thumb bolt, a lamp, and a reflector, wherein the reflector is configured to reflect light from the lamp and wherein the lamp fixture body is configured with a support shelf for supporting the reflector.

Regarding claim 37, either Tyson et al. or Lueken et al. in view of Lueken et al. discloses the claimed invention, explained above. It has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961). Therefore, it is obvious to positioning a housing, adjusting the elevation of the lamp fixture relative to a top surface of the positioning assembly, adjusting the pitch of the lamp fixture relative to the top surface of the positioning assembly, placing the positioning assembly onto the housing, and adjusting the yaw of the lamp fixture relative to a vertical line perpendicular to the top surface of the positioning assembly.

**Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Porter et al. (USPN 5,230,559) – well light

Eissner et al. (USPN 5,887,966) – in-ground lighting apparatus and related method

Belfer (USPN 6,036,337) – virtual axis lighting fixture

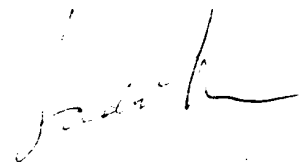
Hayes (USPN 5,144,540) – decorative outdoor light fixture

Scherrer (USPN 4,712,168) – spotlight bracket for a false ceiling or a false wall

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Y Choi whose telephone number is (703) 308-4792. The examiner can normally be reached on Monday-Friday (10:00-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-7724



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March 21, 2003